UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

In re ENRON CORPORATION SECURITIES AND ERISA LITIGATIONS	Civil Action No. H-01-3624 (Consolidated)
This Document Relates To:	
MARK NEWBY, *et al.*, Plaintiffs, v. ENRON CORP., *et al.*, Defendants.	OBJECTIONS OF CLASS MEMBERS JAMES H. ALLEN, JR., BURTON W. CARLSON, JR., MICHAEL DE FREECE, MARCIA A. DE FREECE, ANDREW E. KRINOCK, PHYLLIS A. KRINOCK, PARTCOM LIMITED PARTNERSHIP, REED PARTNERS, L.P., FORMERLY KNOWN AS REED FAMILY LTD. PARTNERSHIP, F. WALKER TUCEI, JR., JUNE P. TUCEI, ROMAN UHING, ALVERA A. UHING, and VIETS FAMILY ASSOCIATES, LLP TO PROPOSED PARTIAL SETTLEMENT AND MEMORANDUM IN SUPPORT OF OBJECTIONS
THE REGENTS OF THE UNIVERSITY OF CALIFORNIA, *et al.*, Plaintiffs, v. KENNETH LAY, *et al.*, Defendants.	
WASHINGTON STATE INVESTMENT BOARD and EMPLOYER-TEAMSTERS LOCAL NOS. 175 and 505 PENSION TRUST FUND, *et al.*, Plaintiffs, v. KENNETH LAY, *et al* , Defendants.	
PAMELA M. TITTLE, *et al.*, Plaintiffs, v. ENRON CORP., Defendant.	

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These Objections to the Proposed Partial Settlement and Memorandum in Support of Objections are filed on behalf of the following members of the Newby Settlement Class: James H. Allen, Jr., Burton W. Carlson, Jr., Michael De Freece, Marcia A. De Freece, Andrew E. Krinock, Phyllis Krinock, Partcom Limited Partnership, Reed Partners, L.P., formerly known as Reed Family Ltd. Partnership, F. Walker Tucei, Jr., June P. Tucei, Roman Uhing, Alvera A. Uhing, and Viets Family Associates, LLP (hereinafter "the Objecting Class Members").

The Objecting Class Members submit these Objections because it appears that the Proposed Partial Settlement is nothing more than a collusive deal that benefits only Plaintiffs' Settlement Counsel, the Settling Defendants and some unidentified persons who are being released from claims apparently without paying any consideration. Further, it appears the recommendation by Plaintiffs' Settlement Counsel that the proposed settlement is fair, adequate and reasonable is based on erroneous assumptions and false conclusions.

I.

INTRODUCTION AND SUMMARY OF ARGUMENT

In order to approve the proposed settlement, this Court must find that the settlement is fundamentally fair, adequate and reasonable. In assessing whether a proposed settlement satisfies this standard, the Court must consider the amount of the proposed settlement and evaluate it in light of the probability of success and the range of potential recovery, as well as other factors. *See* Section II.A *infra.* At present, the Court lacks the information necessary to make this determination.

The most important consideration in deciding whether to grant final approval to a proposed settlement is whether the class is receiving adequate compensation for releasing their

claims. Here, the Court cannot make that determination because the value of the settlement to the Settling Class Members is not clear. While the Settling Defendants have paid $40 million (the "Settlement Amount")[1] into an escrow account, there is no assurance that any of the $40 million will be distributed to the Settlement Class Members, as opposed to Plaintiffs' Settlement Counsel. On the contrary, every indication in the Notice of Pending and Partial Settlement of Class Action ("Class Notice") is that the major portion of the $40 million will be paid only to Plaintiffs' Settlement Counsel. Further, the Settlement Stipulation will release unidentified entities that have not been, but apparently could be, sued and that are being released apparently without paying any consideration. Moreover, as presently structured, the Settlement Stipulation does not restrict use of the Settlement Amount to those uses that benefit only members of the Settlement Class. Thus, the value of the settlement to the Settlement Class Members is unclear. *See* Section II.B, *infra*.

Additionally, Plaintiffs' Settlement Counsel's conclusion that the proposed settlement is fair appears to be based on erroneous assumptions. Plaintiffs' Settlement Counsel appears to have forgotten that AWSC was the entity primarily responsible for developing and enforcing accounting and professional standards for Arthur Andersen LLP and its worldwide affiliates, including the Defendant Member Firms of AWSC. Thus, AWSC had a critical role in the negligence at issue in this action — a role that is not reflected in Plaintiffs' Settlement Counsel's evaluation of the proposed settlement, despite being alleged in the complaint. This false premise is compounded by Plaintiffs' Settlement Counsel's erroneous belief that the fact that AWSC and the Defendant Member Firms ("the Settling Defendants") have disappeared by merger or acquisition or are in

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[1] Capitalized terms used herein that are not otherwise defined in this memorandum have the same meaning as set forth in the Stipulation of Partial Settlement.

liquidation will make collecting any future award against them difficult. Plaintiffs' Settlement Counsel appears not to have considered the fact that the successors, merger partners and acquirers of the Settling Defendants, which include the remaining four largest accounting firms in the world, may be liable for any judgment entered against the Settling Defendants and that the successors, merger partners and acquirers have not been shown to be in any financial difficulty. Thus, two key facts used to justify the settlement are erroneous. *See* Section II.C, *infra.*

Finally, the proposed settlement was submitted to the Court for approval only when one of the Settling Defendants began to wind down. This raises the possibility that the proposed settlement is the product of collusion and fraud. *See* Section II.D, *infra.* Accordingly, the Objecting Class Members urge the Court to seek more information and permit discovery before granting final approval to the Proposed Partial Settlement.

II.

ARGUMENT AND OBJECTIONS

A. The Court Can Approve The Proposed Settlement Only If Its Proponents Establish It Is Fair, Reasonable And Adequate.

A court may grant final approval to a proposed settlement of a class action only if the court determines that the proponent of the proposed settlement has established it is "fair, adequate and reasonable" and that the proposed settlement has been entered into without collusion between the parties. *Ruiz v. McKaskle,* 724 F.2d 1149, 1152 (5th Cir. 1984) (per curiam) (setting out standard of review); *Cotton v. Hinton,* 559 F.2d 1326, 1330 (5th Cir. 1977) (same); *Foster v. Boise-Cascade, Inc.,* 420 F. Supp. 674, 679-80 (S.D. Tex. 1976) (burden is on proponent to satisfy this standard),

aff'd per curiam, 577 F.2d 335, *reh'g denied,* 581 F.2d 267 (5th Cir. 1978). *See also Manual for Complex Litigation (Third)* § 30.41 at 238 (1995). In making this determination, a court must consider the following factors:

1. The probability of plaintiff's success on the merits;
2. The range of possible recovery;
3. The complexity, expense and likely duration of the litigation;
4. The stage of the proceedings and the amount of discovery completed;
5. The opinions of class counsel, class representatives and absent class members; and
6. The assurance that there has been no fraud or collusion behind the settlement.

E.g., Reed v. General Motors Corp., 703 F.2d 170, 172 (5th Cir. 1983). Obviously, in making its assessment, a court also must consider the settlement terms and conditions, including the amount to be recovered by the class and the amount paid by each person being released. *Cotton, supra,* 559 F.2d at 1330. The court also must consider "the manner in which fees of class counsel are to be paid and the dollar amount for such services." *Foster, supra,* 420 F. Supp. at 680.

The district court must exercise "the highest degree of vigilance in scrutinizing proposed settlements of class actions." *Reynolds v. Beneficial Nat'l Bank,* 288 F.3d 277, 279 (7th Cir. 2002). Some courts have even termed the District Court a fiduciary of the class. *Id.* at 280. *See also In re General Motors Corp. Pick-Up Truck Fuel Tank Products Liability Litig.,* 55 F.3d 768, 805 (3d Cir. 1995). And, where as here, "the settlement is not negotiated by a court designated class representative the court must be doubly careful in evaluating the fairness of the settlement to plaintiff's class." *Ace Heating & Plumbing Co. v. Crane Co.*, 453 F.2d 30, 33 (3d Cir. 1971).

Applying these standards, the Court cannot approve the proposed settlement at this time.[2] Too many questions exist about the value and terms of the settlement, which appears to be premised on mistaken assumptions, raising a question of whether the settlement is fair. Other facts suggest that the settlement proposal may be the product of collusion or fraud.

B. The Court Cannot Find That The Settlement Class Members Will Be Adequately Compensated For Releasing Their Claims Because The Value Of The Proposed Settlement To Them Is Not Clear.

The most important consideration in deciding whether to grant final approval to a proposed settlement is whether the class members are receiving adequate compensation for the release of their claims. *In re General Motors Corp. Pick-Up Truck Fuel Tank Products Liability Litig., supra,* 55 F.3d at 805-06. The total consideration must be sufficient. Where the value of the settlement is unclear, a court may not grant final approval. *Id.* Here, that is the case.

While the Settlement Stipulation requires the Settling Defendants to pay $40 million, that is not the value of the settlement to the Settlement Class Members. There is no assurance that any of the $40 million will be distributed to the Settlement Class Members, as opposed to Plaintiffs' Settlement Counsel, and there is every indication that the major portion of the $40 million will be paid only to counsel. Moreover, as presently structured, the Settlement Stipulation does not restrict use of the Settlement Amount to those uses that benefit only members of the Settlement Class, at

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[2] The Objecting Class Members request that the Court permit them to conduct discovery relating to the conduct of the negotiations and the settlement terms to determine whether their interests and those of other class members have been adequately represented. The Court also has an obligation to make such an inquiry before approving the proposed settlement. *See In re General Motors Corp. Engine Interchange Litig.*, 594 F.2d 1106, 1123-25 (7th Cir.), *cert. denied*, 444 U.S. 870 (1979).

least rendering the value of the settlement to the Settlement Class Members unclear, if not further reducing the benefit of the settlement to those who will be releasing claims.

The Settlement Stipulation notes that the "Settlement Amount" totals $40 million. Settlement Stip., ¶ 1.34; Notice of Pendency and Partial Settlement of Class Action ("Class Notice"), Part IX, § 24. Of this $40 million, $15 million (37.5%) is allocated to an Expense Fund. Settlement Stip., ¶ 1.12; Class Notice, Part XII.A, § 1. None of this $15 million is allocated to attorneys' fees; rather, the $15 million will compensate the attorneys only for unknown and undetailed *past and future expenses*. *Id.*[3] Plaintiffs' Settlement Counsel will seek to recover their attorneys' fees from the settlement amount. Settlement Stip., ¶ 5.1; Class Notice, Part XIV. Since the Expense Fund will not cover attorneys' fees, they must be paid from the remainder of the $40 million. Plaintiffs' Settlement Counsel apparently does not plan to submit a request for attorneys' fees in connection with their work on the case to date; nor have they provided the Court or the class with any idea or estimate of what their request might total. Thus, the Court cannot determine how much of the $25 million not set aside to reimburse counsel for their expenses and potentially available for distribution to the Settlement Class is considered likely to be available for disbursement to members of those classes.[4]

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[3] The fact that the Expense Fund will be used to pay future expenses raises problems discussed below. *See* p. 10, *infra*.

[4] Further, since the Settlement Stipulation contemplates that Plaintiffs' Settlement Counsel can request fees for prosecution of the Newby, WSIB and Tittle actions, and no litigation class has yet been certified in those cases, there is a risk that the Settlement Amount will be used to pay the legal expenses and fees of persons who are not members of the Settlement Classes and who are not releasing any claims. This is inherently unfair. The Court should require Plaintiffs' Settlement Counsel to provide an estimate of the amount of expenses and fees incurred to date and order that only expenses incurred to date in the Newby and Tittle actions

The Class Notice suggests that the Class Representatives and Plaintiffs' Settlement Counsel anticipate that ***none of the $25 million will be distributed to members of the Settling Classes.*** The Class Notice states:

> Because of the aggregate amount of damages that Plaintiffs' Settlement Counsel assert were suffered by Settlement Class Members, it is not economically feasible to distribute the Gross Settlement Fund to Settlement Class Members at this time. Plaintiffs' Settlement Counsel anticipate that *such distributions will occur in connection with additional recoveries* against the remaining Defendants in the Actions (emphasis added).

Class Notice, Part XII.A. This language does not clearly indicate that Plaintiffs' Settlement Counsel actually anticipate that any of the $25 million of the $40 million Settlement Amount not reserved for legal expenses will be distributed to the Settlement Class Members at a later date. Rather, this language suggests counsel anticipates the Settlement Class Members will recover only if the remaining defendants settle or have a judgment entered against them. A settlement that rewards attorneys only and provides no compensation to class members cannot be approved.[5] Further, without knowing how much it is anticipated the Settlement Class Members will ultimately receive, the Court cannot possibly evaluate the fairness of the proposed settlement pursuant to the applicable standards.

As a protector of absent class members' rights and in furtherance of its "obligation in any Rule 23 class action to protect this special procedural device from misuse[,]" in deciding whether to approve a class action settlement, the "Court ... has an unbending duty to ensure that

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be paid from the $40 million settlement fund.

[5] Further, as discussed below, it is not clear that only members of the Settlement Class will benefit from the award of expenses to Plaintiffs' Settlement Counsel. *See* p. 10, *infra.*

counsel is not unreasonably benefitted by the award of an exorbitant fee." *Foster, supra,* 420 F. Supp. at 680. Here, no notice of the amount of expenses and attorneys' fees that ultimately may be sought by Plaintiffs' Settlement Counsel was provided to the Settling Class Members or to the Court. The Court, therefore, cannot evaluate the fairness of the Proposed Partial Settlement in which "the size of the attorneys' fees award ... [is] a relevant consideration ... ." *Id.* at 685.

Courts routinely require that the notice of settlement give the absent class members notice of the amount of compensation sought by class counsel. *Id.* at 680. Where the notice to the class does not include disclosure of the amount of attorneys' fees that would be awarded pursuant to the compromise, a court should not approve the settlement without a detailed inquiry and discovery on that issue. *Foster, supra,* 420 F. Supp. at 688-92. The *Manual for Complex Litigation* states:

> Class members should be advised of the potential impact of the fee determination on the amount available to satisfy the class claim. Unless an upper limit is set, class members will not be adequately advised of what they can expect from the proposed settlement.

Manual for Complex Litigation (Third) § 30.42 at 240 (1995). Here, not only have the Settlement Class Members not been notified of what the potential impact of legal fees and expenses could be, no upper limit has been set on the fees Plaintiffs' Settlement Counsel may recover.

The Court must also find the settlement inadequate and unfair for other reasons. The "Settlement Class" entitled to participate in the Gross Settlement Fund is defined as "the Newby Settlement Class and the Tittle Settlement Class, collectively." Settlement Stip., ¶ 1.35. How much each of these respective classes will receive will be determined only in the future, after arbitration. Settlement Stip., ¶ 2.4. While the Settlement Stipulation appears to allow absent class members to

challenge the arbitrator's award, it is not clear that the Court will have the opportunity to evaluate the fairness of any allocation made by the arbitrator; this is because the Settlement Stipulation provides that the arbitrator's findings will be "confidential, binding, and non-appealable." *Id.* Thus, if the Court were to conclude that the two Settling Classes have different probabilities of success on the merits and different ranges of possible recovery, the Court's assessment may not be reflected in an allocation between the two classes.

Moreover, this contemplated arbitration appears designed to benefit only Plaintiffs' Settlement Counsel. If, as the Class Notice suggests, none of the $40 million settlement will be distributed to members of the Newby Settlement Class and the Tittle Settlement Class, what is to be achieved by arbitrating the allocation of the Settlement Amount between the two classes? The only result of arbitration will be the incurring of legal fees and expenses, without any benefit to the Settlement Class Members.

Further, the proposed settlement is unfair because it may allow some members of the Settlement Class to double dip, recovering twice from the Gross Settlement Fund. Under the Settlement Stipulation, the arbitrator will allocate the Gross Settlement Fund "between the Newby Action and the WSIB Action, on the one hand, and the Tittle Action, on the other[.]" *Id.* But the Settlement Stipulation does not define a WSIB Settlement Class. The WSIB Class defined in the WSIB complaint appears to overlap with the Tittle Settlement Class. The WSIB complaint alleges it is brought on behalf of a class that consists of "all person who acquired Enron's publicly traded securities ... during the Class Period ..., and Enron employees who purchased Enron stock individually for their 401(k) retirement plans during the Class Period." WSIB Complaint, ¶ 325.

The Tittle Action was also brought on behalf of Enron employees who purchased Enron stock. Settlement Stip., ¶ 1.40. Thus, it appears that the Tittle Settlement Class may have their expenses and attorneys fees' awarded twice. This would be inherently unfair.

Moreover, there is no assurance that the Expense Fund will be used to pay expenses incurred only on behalf of those persons who are members of the Settlement Class. No class has been certified in the on-going litigation against the remaining defendants. The Expense Fund, however, will be used to pay counsel for the Representative Plaintiffs for their *future* expenses and fees in prosecuting "the Actions." Settlement Stip., ¶ 6.1 The term "the Actions" includes the Newby, WSIB and Tittle actions. Settlement Stip., ¶ 1.1. As noted earlier, there is no assurance that the classes that may ultimately be certified in the on-going litigation will include only and all members of the Settlement Class. Thus, it may be that funds that should be distributed to the Settlement Class Members or used to pay legal expenses and fees incurred to achieve a recovery for them, will in fact pay the legal fees and costs of others and that those legal services will not result in any future recovery for all members of the Settlement Class. Without knowing that the gross Settlement Fund will only be used for the direct compensation, or indirect benefit, of the Settlement Class, the Court cannot value or approve the settlement.

C. The Court Should Reject The Proposed Settlement Because It Is Based On Erroneous Assumptions.

In considering whether to grant final approval to a settlement, a court should consider the stage of the proceedings and the amount of discovery completed, as well as the opinions of class counsel. *Reed, supra,* 703 F.2d at 172; *Parker v. Anderson,* 667 F.2d 1204, 1209 (9th Cir. 1982).

Here, it appears no discovery has been conducted of the Settling Defendants. Perhaps for that reason, the opinions of Plaintiffs' Settlement Counsel regarding the settlement are predicated on incomplete information. The brief in support of the settlement notes that "AWSC does not provide professional services to any client ... ." Memorandum in Support of Representative Plaintiffs' Motion for Preliminary Approval of Proposed Partial Settlement ("Brief in Support of Settlement") at 3. This fact seems to have led Plaintiffs' Settlement Counsel to conclude that AWSC played no, or a very limited, role in the misconduct alleged in the complaints.

But the fact is, as the Objecting Class Members can attest and as was alleged in the First Amended Consolidated Complaint — allegations that are ignored by Plaintiffs' Settlement Counsel in their recommendations, raising the possibility of collusion— AWSC was the entity in charge of establishing and enforcing accounting and professional standards, as well as quality control techniques and procedures of, educating and training personnel of, and coordinating client services on a worldwide basis for, all of its member firms, including Arthur Andersen LLP and the other entities that provided professional services to Enron. Certification of Burton W. Carlson, Jr. ("Carlson Certification"), ¶ 6; Certification of Gilbert F. Viets ("Viets Certification"), ¶ 6. *See* First Amended Consolidated Complaint, ¶¶ 92(a), 973(c). The complaint alleges that Arthur Andersen LLP and the other AWSC entities failed to conform to the standards of care applicable to accountants

and auditors. *Id.*, ¶¶ 897-982. Because they concluded that AWSC played no or a limited role in the conduct in issue, it appears that Class Counsel has not taken into account the critical role AWSC actually played. That calls into question the validity of their conclusion that the proposed settlement is fair, adequate and reasonable, and, because the conclusion is at odds with the facts, raises the possibility of collusion.

Additionally, in support of the settlement, Plaintiffs' Settlement Counsel and the Representative Plaintiffs note that "AWSC is in the process of winding up its affairs (which may culminate in a Swiss bankruptcy proceeding) and most of the former Member Firms have meanwhile entered into arrangements with other accounting firms if they are not on the brink of bankruptcy or have already been dissolved." Brief in Support of Settlement at 3-4. However, according to the Settlement Stipulation, many of the AWSC entities have "successors," "acquirers," and "merger partners." Settlement Stip., ¶ 1.5(e). Those successors, acquirers, and merger partners, among others, are being released by the proposed settlement. *Id.*, ¶ 1.30. If their liability concerns are sufficient to justify their inclusion in the release, they should contribute to the settlement. There is no showing that they have done so. Releasing them without consideration is inherently unfair, inadequate and unreasonable. Nor has there been any showing that it would be unreasonable to sue them directly, justifying their release for no consideration. Further, as successors, merger partners and acquirers of any of the Settling Defendants, those entities may be responsible for any wrong-doing by, or judgments entered against, the named defendants who are settling.

Moreover, the proponents of the Proposed Partial Settlement have not even identified the successors, merger partners, and acquirers of the AWSC Entities or the other parties who have

otherwise combined or integrated their business with an AWSC Entity. Yet, all such persons are receiving releases. These unidentified persons receiving releases could include the international accounting firms of Deloitte & Touche, Ernst & Young, KPMG and PricewaterhouseCoopers — each of whom acquired significant portions of the international practice of the AWSC Entities, as well as the U.S. practice of Arthur Andersen LLP. Carlson Certification, ¶ 7; Viets Certification, ¶ 7. There is no showing that any of these successors, merger partners or acquirers are incapable of paying any judgment that might be entered against them or the Settling Defendants. For these reasons, Plaintiffs' Settlement Counsel's conclusions that "the collectibility of any resulting judgment [against the Settling Defendants] would be in serious doubt" and that the issue of collectibility is one of three "daunting obstacles to any recovery," Brief in Support of Settlement at 4, cannot be accepted at this time.

Before the Court grants final approval to the Proposed Partial Settlement, the Court should also clarify that none of the persons who succeeded to, merged with, acquired, or integrated its business with, both an AWSC Entity and Arthur Andersen LLP is being released for the liabilities incurred by, or that may be assumed from, Arthur Andersen LLP.

D. The Court Should Refuse To Approve The Proposed Settlement Because It May Be The Product Of Collusion And Fraud.

The settlement proposal before this Court was negotiated in August *2002* and the Settling Defendants paid the Settlement Amount into an escrow account on August 30, *2002.* Settlement Stip., p. 1,¶ 2.1. However, approval of the Settlement was not sought until July *2003* — almost a year later. At that time, one of the Settling Defendants, AWSC, was said to be in

liquidation and in danger of bankruptcy. Brief in Support of Settlement at 3. This unusual course of events raises a number of questions: Why was approval of the settlement sought only after AWSC began to wind down its affairs?[6] Was the timing set up to make the amount of the settlement appear more reasonable? This raises the possibility of collusion.

Further, the fact that Plaintiffs' Settlement Counsel have ignored their own allegations over the critical role of AWSC in evaluating the proposed settlement, *see* Section II.C, *supra*, also suggests the possibility of collusion.

III.

CONCLUSION

In summary, the Court cannot determine the value of the proposed settlement, which is premised on erroneous assumptions or conclusions and that may have been the product of collusion. For these reasons, the Court cannot grant final approval to the proposed settlement and

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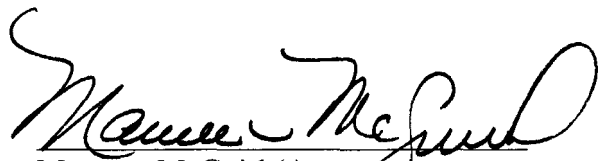
[6] AWSC's liquidation was published in the Swiss corporate register on July 14, 2003, as shown in Exhibit A hereto.

should permit the Objecting Class Members to conduct discovery on the settlement negotiations and the fairness, adequacy and reasonableness of the proposed settlement.

Dated: September 23, 2003

FENSTERSTOCK & PARTNERS LLP

By 

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Corporate register (canton Geneva) dated July 14, 2003 Page 7

■ **AWSC Société Coopérative**, à Meyrin (FOSC du 02.07.2003, p. 8). La société est dissoute par décision de l'assemblée générale du 02.07.2003. Sa liquidation est opérée sous la raison sociale: **AWSC Société Coopérative, en liquidation**. Cardoso Aldo et Stienz Thomas ne sont plus administrateurs; leurs pouvoirs sont radiés. Rufer Thomas, jusqu'ici administrateur, est nommé liquidateur; il continue à signer individuellement.

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(01080826 / CH-660.0.400.977-0)

CERTIFICATE OF SERVICE H01-3624

The undersigned certifies under penalty of perjury that a true and correct copy of the following documents:

1. Certification, Proof of Membership in Settlement Class and Objections of James H. Allen, Jr.;

2. Certification, Proof of Membership in Settlement Class and Objections of Burton W. Carlson, Jr.;

3. Certification, Proof of Membership in Settlement Class and Objections of Michael T. De Freece;

4. Certification, Proof of Membership in Settlement Class and Objections of Marcia A. De Freece;

5. Certification, Proof of Membership in Settlement Class and Objections of Andrew E. Krinock;

6. Certification, Proof of Membership in Settlement Class and Objections of Phyllis A. Krinock;

7. Certification, Proof of Membership in Settlement Class and Objections of Partcom Limited Partnership;

8. Certification, Proof of Membership in Settlement Class and Objections of John T. Reed;

9. Certification, Proof of Membership in Settlement Class and Objections of F. Walker Tucei, Jr.;

10. Certification, Proof of Membership in Settlement Class and Objections of June P. Tucei;

11. Certification, Proof of Membership in Settlement Class and Objections of Roman H. Uhing;

12. Certification, Proof of Membership in Settlement Class and Objections of Alvera A. Uhing;

13. Certification, Proof of Membership in Settlement Class and Objections of Gilbert F. Viets; and

14. Objections of Class Members James H. Allen, Jr., Burton W. Carlson, Jr., Michael De Freece, Marcia A. De Freece, Andrew E. Krinock, Phyllis A. Krinock, Partcom

Limited Partnership, Reed Partners, L.P., Formerly Known as Reed Family Ltd. Partnership, F. Walker Tucei, Jr., June P. Tucei, Roman Uhing, Alvera A. Uhing, and Viets Family Associates, LLP to Proposed Partial Settlement and Memorandum in Support of Objections

have been served, pursuant to the Notice of Pendency And Partial Settlement of Class Action, upon the following counsel by overnight delivery, United Parcel Service, prepaid, this 23rd day of September, 2003:

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